

(Del. Rev. 12/98)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CLERK U.S. DISTRICT COURT  
DISTRICT OF DELAWARE  
2008 FEB 15 PM 1:05

Edward Rainey

(Name of Plaintiff or Plaintiffs)

08 - 102

v.

CIVIL ACTION No. \_\_\_\_\_

Diamond State Port corp.  
I.L.A. Local 1694-1 Attorney Barney  
(Name of Defendant or Defendants) For I.L.A. (25) 546-4183  
Union

**COMPLAINT UNDER TITLE VII**

**OF THE CIVIL RIGHTS ACT OF 1964**

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964, as amended, for employment discrimination. Jurisdiction exists by virtue of 42 U.S.C. §2000e-5. Equitable and other relief are also sought under 42 U.S.C. §2000e-5(g).

2. Plaintiff resides at 603 W. 4<sup>th</sup> St Apt 1  
(Street Address)  
Wilm. New Castle De. 19801  
(City) (County) (State) (Zip Code)  
(302) 594-1088 or 427-2968  
(Area Code) (Phone Number)

3. Defendant resides at, or its business is located at Diamond State Port corp.  
(Street Address)  
1 Hausel Road New Castle Wilm. De. 19801-5852  
(City) (County) (State) (Zip Code)

4. The discriminatory conduct occurred in connection with plaintiff's employment at, or application to be employed at, defendant's Diamond State Port place of business  
(Defendant's Name)  
located at \_\_\_\_\_  
(Street Address)

(City)

(County)

(State)

(Zip Code)

5. The alleged discriminatory acts occurred on 19 , 1 , 07 .  
(Day) (Month) (Year)

6. The alleged discriminatory practice ☐ is ☒ is not continuing.

7. Plaintiff filed charges with the Department of Labor of the State of Delaware,  
Division of Industrial Affairs 4425 N. Market  
(Agency) (Street Address) (City)  
St. Wilm. Castle, De. 19802 , regarding  
(County) (State) (Zip Code)  
defendant's alleged discriminatory conduct on 5 , 07 , 07 .  
(Day) (Month) (Year)

8. Plaintiff filed charges with the Equal Employment opportunity Commission of the United States  
regarding defendant's alleged discriminatory conduct on: 5 , 07 , 07 .  
(Day) (Month) (Year)

9. The Equal Employment Opportunity Commission issued the attached Notice-of-Right-to-Sue letter  
which was received by plaintiff on: 7 , 13 , 07 .  
(Day) (Month) (Year)

**(NOTE: ATTACH NOTICE-OF-RIGHT-TO-SUE LETTER TO THIS COMPLAINT.)**

10. The alleged discriminatory acts, in this suit, concern:

- A. ☒ Failure to employ plaintiff.
- B. ☒ Termination of plaintiff's employment.
- C. ☐ Failure to promote plaintiff.
- D. ☐ Other acts (please specify below)

Civil Right's 442, 320, 710, 470, 900, and  
660. All those things were cover up, which-  
-eln 5 years.

11. Defendant's conduct is discriminatory with respect to the following:

- A. ☒ Plaintiff's race
- B. ☒ Plaintiff's color
- C. ☒ Plaintiff's sex
- D. ☐ Plaintiff's religion
- E. ☒ Plaintiff's national origin

12. A copy of the charges filed with the Equal Employment Opportunity Commission is attached to this complaint and is submitted as a brief statement of the facts of plaintiff's claim.

13. If relief is not granted, plaintiffs will be irreparably denied rights secured by Title VII of the 1964 Civil Rights Act, as amended.

14. Plaintiff's has no adequate remedy at law to redress the wrongs described above.

**THEREFORE, Plaintiff prays as follows: (Check appropriate letter(s))**

- A. ☒ That all fees, cost or security attendant to this litigation be hereby waived.
- B. ☐ That the Court appoint legal counsel.
- C. ☐ That the Court grant such relief as may be appropriate, including injunctive orders, damages, cost and attorney's fees.

I declare under penalty of perjury that the foregoing is true and correct. *E, R,*

Dated: 2-15-08

Edward Rainey  
(Signature of Plaintiff)

\_\_\_\_\_  
(Signature of additional Plaintiff)

STATE OF DELAWARE  
DEPARTMENT OF LABOR  
DIVISION OF INDUSTRIAL AFFAIRS – DISCRIMINATION PROGRAM

Edward J. Rainey  
603 W. 4th Street  
Apt. #1  
Wilmington, DE 19801

Case No. 07050284W

vs.

STATE OF DE/DIAMOND STATE PORT CORP  
Omb/Hrm/Labor Relations & Employment,  
820 N. French Street,  
Wilmington, DE 19801

FINAL DETERMINATION AND RIGHT TO SUE NOTICE

Pursuant to 19 Del. C. § 710, *et seq.*, the parties in the above-captioned matter are hereby Noticed of the Department's Final Determination and Right to Sue Notice, as follows:

***No-Cause Determination and Dismissal with Corresponding Right to Sue Notice.***

In this case, the Department has completed its investigation and found that there is no reasonable cause to believe that an unlawful employment practice has occurred. The Department hereby issues a No-Cause Determination and Dismissal and provides the Charging Party with a Delaware Right to Sue Notice.

This No Cause determination is based on the following facts:

*In this charge of discrimination the Charging Party must prove by a preponderance of the evidence that his gender was a motivating factor in his discipline and discharge. In the absence of direct evidence, the Charging Party can support his allegations with circumstantial evidence if he can show that (1) he was a member of a protected class; (2) he suffered adverse action; and (3) similarly situated coworkers outside of Charging Party's protected class were treated more favorably under similar circumstances. The Department has considered the information and evidence submitted by both parties, and finds that this claim fails on the third prong; that is, the female coworkers who Charging Party alleges were treated more favorably were not similarly situated. This was Charging Party's second incident of fighting within a year, and he was determined to have been the aggressor. The response to his first offense was in line with – and even more lenient than – the actions taken against others following first offenses. The Charging Party was informed of this Agency's Preliminary Determination to dismiss this Charge of Discrimination and afforded him the opportunity to submit additional information. He has not done so. Accordingly, this No Cause Determination follows.*

See the attached Notice of Rights.

This Final Determination is hereby issued on behalf of the Department of Labor, Division of Industrial Affairs, Discrimination Program.

7/13/07  
Date issued

FOS/KC, 12/12/07  
Julie Klein Cutler, Administrator

Delaware Department of Labor, Division of Industrial Affairs, 4425 N. Market St., Wilmington, DE 19802

08-102

JS 44 (Rev. 12/07)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

*Edward Rainey*  
603 W. 4th St Apt 1  
New Castle  
Wilm, Del. 19801

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

## DEFENDANTS

*Diamond State Port Corp.*  
1 Hausel Rd. Wilm, Del

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- |   |  |   |   |
|---|--|---|---|
| Citizen of This State                   | PTF <input checked="" type="checkbox"/> 1 DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | PTF <input checked="" type="checkbox"/> 4 DEF <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 <input type="checkbox"/> 2                    | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5                               |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3                    | Foreign Nation  | <input type="checkbox"/> 6 <input type="checkbox"/> 6                               |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input checked="" type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input checked="" type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input checked="" type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input checked="" type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

## V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☒ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

472, 710, 320, 446 And 470.  
Brief description of cause:  
Claims against Port and Union

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$  
UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

## VIII. RELATED CASE(S)

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

2008 FEB 15 PM 1:05

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

CLERK U.S. DISTRICT COURT  
DISTRICT OF DELAWARE  
FILED



AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

08 - 102

Civil Action No. \_\_\_\_\_

**ACKNOWLEDGMENT**  
**OF RECEIPT FOR AO FORM 85**

**NOTICE OF AVAILABILITY OF A**  
**UNITED STATES MAGISTRATE JUDGE**  
**TO EXERCISE JURISDICTION**

I HEREBY ACKNOWLEDGE RECEIPT OF 2 COPIES OF AO FORM 85.

2/15/08  
(Date forms issued)

Edward Rainer  
(Signature of Party or their Representative)

Edward Rainer  
(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action